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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC SOCIAL AND CULTURAL RIGHTS

List of issues to be taken up in connection with the consideration of the initial report of China: the Special Administrative Region of Hong Kong concerning the rights covered by articles 1-15 of the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.43)

I. GENERAL LEGAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED

1. Paragraph 101 of the core document states that although treaties that apply to Hong Kong do not have the force of law in the domestic legal system, the courts will construe domestic law in such a way as to avoid incompatibility with Hong Kong's international obligations. Please discuss specific cases in this regard.

2. Please explain the necessity of maintaining the reservations to articles 1, 6, 7 and 8 of the Covenant. Please provide the time-frame within which the Hong Kong Special Administrative Region (HKSAR) plans to withdraw these reservations.

3. Please describe in detail the progressive measures undertaken to include the provisions of the Covenant into the domestic law of the HKSAR, which would have the effect of giving the International Covenant on Economic, Social and Cultural Rights equal status to the International Covenant on Civil and Political Rights, in accordance with the principles of indivisibility and interdependence of all human rights.

II. ISSUES RELATING TO THE GENERAL PROVISIONS OF THE COVENANT (Arts. 1-5)

Article 2: Non-discrimination

4. Please provide detailed information on the studies and consultations conducted in relation to legislation against discrimination on the grounds of race and sexual orientation as mentioned in paragraph 13 of the report. Please include information on the methodology used, the sampling method, as well as the number and classification of respondents.

5. What laws and measures are in place for the protection of migrant workers, immigrants from mainland China and foreign domestic helpers against discrimination?

Article 3: Equality between men and women

6. Please discuss the conclusions of the review committee which examined the New Territories Small House Policy, with a view to amending the sections discriminating against female indigenous villagers (paragraph 87 of the HKSAR's recent report (CCPR/C/HKSAR/99/1) to the Human Rights Committee).

7. Please discuss the results of the review, begun in December 1997, of the Sex Discrimination Ordinance by the Equal Opportunities Commission, mentioned in paragraph 73 of the HKSAR's report to the Human Rights Committee.

III. ISSUES RELATING TO SPECIFIC RIGHTS RECOGNIZED IN THE COVENANT (Arts. 6-15)

Article 6: Right to work

8. Please describe the measures undertaken to address the problem of unemployment among middle-aged unskilled women.

9. In paragraph 76 of the report the Government states that it is committed to the elimination of all forms of discrimination in employment. Please describe the progress made in connection with the results of the public education measures taken in an effort to eliminate racial and age discrimination in employment. In addition, please indicate the difficulties and obstacles that still need to be addressed.

10. Please indicate the extent to which workers imported to the HKSAR under the Supplementary Labour Scheme, and the Special Labour Importation Scheme for the New Airport and related projects mentioned in paragraph 65 of the report, enjoy legal protection with regard to the rights under article 6 of the Covenant.

Article 7: The right to just and favourable conditions of work

11. Please discuss the conclusions of the study on equal pay for work of equal value commissioned by the Equal Opportunities Commission referred to in paragraph 81 of the report. Please indicate to what extent the Government seeks a more active role in enforcing this right.

12. Please discuss the results of the consultation with employees and employers regarding working hours, for which there is no statutory limitations at present (paragraph 87 (b) of the report).

13. Given the absence of a statutory minimum wage in the HKSAR, how does the Government determine whether average earnings are sufficient to secure an adequate standard of living for workers and their families?

14. The report does not give any information about the extent of the incidence of sexual harassment of women in the workplace. Please provide information about the dimensions of this problem and the measures taken by the Government to curb it.

Article 8: Trade union rights

15. Please discuss the extent and importance of the system of voluntary collective bargaining, encouraged and promoted by the Government, as stated in paragraph 130 of the report and its impact on the rights under article 8 of the Covenant.

16. Paragraph 388 of the HKSAR's report to the Human Rights Committee states that article 27 of the Basic Law guarantees the right to strike. However, alternative sources of information claim that contrary to this law, employers can dismiss striking employees for breaking their employment contracts. Please explain.

17. According to the International Confederation of Free Trade Unions, the right to freedom of association has been limited. Please indicate the number of times the Societies Ordinance or the Public Order Ordinance have been invoked to refuse permits to trade union demonstrators, after amendments made in 1997 to both ordinances to include the concept of national security.

Article 9: The right to social security

18. Please indicate to what extent the rates of assistance paid through the Comprehensive Social Security Assistance (CSSA) Scheme mentioned in paragraph 142 of the report provide for a decent standard of living for recipients.

19. Please describe the concrete measures the Government is undertaking to ensure a decent standard of living for older persons who depend on SSA (Social Security Allowance) and CSSA assistance.

20. Please discuss concrete efforts taken by the Government to simplify the application procedure for the CSSA to ensure its accessibility (paragraph 153 of the report).

21. Please indicate the measures undertaken to ensure that single-parent families receive sufficient and adequate support for the upbringing of their children.

Article 10: The protection of the family, mothers and children

22. Please describe the measures the Government is taking to instil awareness among women about the legal protection and remedies available to them in cases of domestic violence.

23. Please indicate whether marital rape is a criminal offence in Hong Kong.

24. Please provide more information on the Certificate Entitlement Scheme described in paragraphs 216-219 in the report and why it operates with the One-Way Exit Permit system, which is perceived to be contrary to the nature of the right of abode.

25. Paragraph 301 of the report mentions an assessment, conducted by the Elderly Commission and completed in September 1998, of the demand for longer-term housing and residential care services for older persons and the strategy required to meet those needs. Please discuss the results of the assessment as well as the details of the strategy formulated, including any action taken to implement it.

26. Please provide updated information on the incidence of prostitution and on substance, including tobacco and alcohol abuse among the youth.

Article 11: The right to an adequate standard living

27. Please indicate whether an official poverty line exists in the HKSAR and if so, please provide data, disaggregated on the basis of sex, age, and national or social origin, on the number of people who are living below this poverty line.

28. Please indicate to what extent hunger and malnutrition exist in the HKSAR. In particular, what is the situation of vulnerable and disadvantaged groups (including the unemployed, migrant workers, children, disabled and older persons).

29. Please provide up-to-date statistics on the number of inadequately housed persons in HKSAR.

30. Please indicate whether the Government has succeeded in phasing out the temporary housing areas (THA), as stated in paragraph 363. Please describe the "interim accommodation" provided to the families which do not qualify for public rental housing.

31. Please indicate what legislative measures have been adopted to protect persons or groups against forced or arbitrary evictions. What sanctions have been imposed for violation of such laws?

Article 12: The right to physical and mental health

32. To what extent do the measures taken by the Government and NGOs described in paragraphs 434-436 satisfy the needs of the mentally disabled residing in the HKSAR?

33. Please discuss the outcome of the recently completed review of the health care financing system (paragraph 456 of the report).

34. Please discuss the effects of pollution on the health of the population and the measures taken by the Government to address these effects.

Articles 13 and 14: The right to education

35. Please indicate whether any special action or policy has been adopted by the Government in an effort to increase the literacy rate, which stood at 90.5 per cent in 1996 according to paragraph 68 (d) of the core document.